

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0065-AIR-E TCEQ ID: RN102980539 CASE NO.: 35196**  
**RESPONDENT NAME: J. H. Strain & Sons, Inc.**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Hot Mix Plant No. 1, located at the intersection of Interstate Highway 20 and Hayter Road, Taylor County</p> <p><b>TYPE OF OPERATION:</b> Hot mix asphalt plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 14, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Kent Strain, Vice President, J. H. Strain &amp; Sons, Inc., P.O. Box 277, Tye, Texas 79563  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 26, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 20, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Investigators were in the area investigating a complaint of odors and smoke. During the course of the complaint investigation, visible emissions were seen emanating from the Respondent's plant. The investigators stopped at the plant and documented an air violation.</p> <p><b>AIR</b></p> <p>Failed to maintain all air pollution emission capture and abatement equipment in good working order while operating the plant. Specifically, on October 26, 2007, the Respondent operated with damaged fabric filters resulting in visible emissions. General Condition (1)(K)(i) of the Standard Permit for Hot Mix Asphalt Plants requires that the fabric filter system shall be maintained and operated properly with no tears or leaks [30 TEX. ADMIN. CODE §§ 116.115(b)(2), 116.615(9), Standard Permit Registration No. 72637L002, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$800</p> <p><b>Total Deferred:</b> \$160  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$640</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on October 26, 2007, the Respondent replaced the rotary drum dryer bag house fabric filters as a corrective measure at the Plant.</p>

Additional ID No(s): 960095E



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

<b>DATES</b>	<b>Assigned</b>	26-Nov-2007
	<b>PCW</b>	9-Jan-2008
	<b>Screening</b>	8-Jan-2008
	<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	J. H. Strain & Sons, Inc.
<b>Reg. Ent. Ref. No.</b>	RN102980539
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>	
<b>Enf./Case ID No.</b>	35196
<b>Docket No.</b>	2008-0065-AIR-E
<b>Media Program(s)</b>	Air
<b>Multi-Media</b>	
<b>Admin. Penalty \$</b>	Limit Minimum \$0 Maximum \$10,000
<b>No. of Violations</b>	1
<b>Order Type</b>	1660
<b>Enf. Coordinator</b>	Miriam Hall
<b>EC's Team</b>	Enforcement Team 4

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$1,000

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 5% Enhancement **Subtotals 2, 3, & 7** \$50

Notes: Penalty was enhanced for one same or similar NOV.

**Culpability** No 0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 25% Reduction **Subtotal 5** \$250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent came into compliance by October 26, 2007. The NOE was issued November 20, 2007.

**0% Enhancement\*** **Subtotal 6** \$0  
 \*Capped at the Total EB \$ Amount

Total EB Amounts	\$0
Approx. Cost of Compliance	\$500

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$800

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$800

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$800

**DEFERRAL** 20% Reduction **Adjustment** -\$160

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$640

Screening Date 8-Jan-2008

Docket No. 2008-0065-AIR-E

PCW

Respondent J. H. Strain &amp; Sons, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35196

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102980539

Media [Statute] Air

Enf. Coordinator Miriam Hall

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Penalty was enhanced for one same or similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

<b>Screening Date</b> 8-Jan-2008 <b>Respondent</b> J. H. Strain & Sons, Inc. <b>Case ID No.</b> 35196 <b>Reg. Ent. Reference No.</b> RN102980539 <b>Media [Statute]</b> Air <b>Enf. Coordinator</b> Miriam Hall <b>Violation Number</b> <input type="text" value="1"/>	<b>Docket No.</b> 2008-0065-AIR-E <div style="text-align: right;"> <b>PCW</b>  <small>Policy Revision 2 (September 2002)  PCW Revision November 6, 2007</small> </div>																														
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<b>Base Penalty</b> <input style="width: 100px;" type="text" value="\$10,000"/>																															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																															
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 20%; text-align: center;"><b>Harm</b></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> </tr> <tr> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </table> <div style="text-align: right; margin-top: 5px;"> <b>Percent</b> <input style="width: 50px;" type="text" value="10%"/> </div>		<b>Harm</b>				<b>Release</b>	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	x		Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>											
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<b>&gt;&gt; Programmatic Matrix</b>																															
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	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>																											
<b>Matrix Notes</b>	<div style="border: 1px solid black; padding: 5px;"> Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation. </div>																														
<b>Adjustment</b> <input style="width: 100px;" type="text" value="\$9,000"/>																															
<input style="width: 100px;" type="text" value="\$1,000"/>																															
<b>Violation Events</b>																															
<div style="display: flex; justify-content: space-between;"> <div> <b>Number of Violation Events</b> <input style="width: 50px;" type="text" value="1"/> </div> <div> <input style="width: 50px;" type="text" value="1"/> <b>Number of violation days</b> </div> </div> <div style="margin-top: 10px;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 20%; text-align: center;">daily</td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> <td style="width: 20%;"></td> </tr> <tr> <td></td> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">quarterly</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">annual</td> <td><input type="text"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">single event</td> <td><input type="text"/></td> <td></td> <td></td> </tr> </table> <div style="margin-top: 10px; text-align: center;"> <div style="border: 1px solid black; padding: 5px; display: inline-block;"> One quarterly event is recommended. </div> </div> </div> <div style="text-align: right; margin-top: 10px;"> <b>Violation Base Penalty</b> <input style="width: 100px;" type="text" value="\$1,000"/> </div>			daily					monthly	<input type="text"/>				quarterly	x				semiannual	<input type="text"/>				annual	<input type="text"/>				single event	<input type="text"/>		
	daily																														
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	quarterly	x																													
	semiannual	<input type="text"/>																													
	annual	<input type="text"/>																													
	single event	<input type="text"/>																													
<b>Economic Benefit (EB) for this violation</b>																															
<div style="display: flex; justify-content: space-between;"> <div> <b>Estimated EB Amount</b> <input style="width: 100px;" type="text" value="\$0"/> </div> <div> <b>Statutory Limit Test</b> </div> </div> <div style="margin-top: 10px; text-align: right;"> <b>Violation Final Penalty Total</b> <input style="width: 100px;" type="text" value="\$800"/> </div> <div style="text-align: right; margin-top: 10px;"> <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width: 100px;" type="text" value="\$800"/> </div>																															

**Economic Benefit Worksheet****Respondent** J. H. Strain & Sons, Inc.**Case ID No.** 35196**Reg. Ent. Reference No.** RN102980539**Media** Air**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment	\$500	26-Oct-2007	26-Oct-2007	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

The estimated cost of replacing the rotary drum dryer bag house fabric filters. The filters were replaced later on the same day the violation was documented.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$500

**TOTAL**

\$0

# Compliance History

Customer/Respondent/Owner-Operator:	CN600505416	J.H. Strain & Sons, Inc.	Classification: AVERAGE	Rating: 3.75
Regulated Entity:	RN102980539	HOT MIX PLANT NO 1	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	AIR NEW SOURCE PERMITS	REGISTRATION	72637L002	
	AIR NEW SOURCE PERMITS	REGISTRATION	72637L001	
	AIR NEW SOURCE PERMITS	REGISTRATION	53826L001	
	AIR NEW SOURCE PERMITS	REGISTRATION	72637L003	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	960095E	
	AIR NEW SOURCE PERMITS	AFS NUM	4877700009	
Location:	PORTABLE: INTERSECTION OF I-20 AND HAYTER ROAD Taylor County		Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	January 14, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 08, 2003 to January 08, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Miriam Hall	Phone:	(512) 239-1044	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
  - 1 10/04/2005 (432837)
  - 2 10/26/2005 (434198)
  - 3 11/20/2007 (599702)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date: 10/06/2005 (432837)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

Description: Failure to maintain PM abatement equipment (bag house with fabric filters) as required by the permit and 30 TAC §116.115(b)(2)(G).
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
J. H. STRAIN & SONS, INC.  
RN102980539**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0065-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding J. H. Strain & Sons, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a hot mix asphalt plant at the intersection of Interstate Highway 20 and Hayter Road in Taylor County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 25, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Hundred Dollars (\$800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Forty Dollars (\$640) of the administrative penalty and One Hundred Sixty



Dollars (\$160) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on October 26, 2007, the Respondent replaced the rotary drum dryer bag house fabric filters as a corrective measure at the Plant.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, the Respondent is alleged to have failed to maintain all air pollution emission capture and abatement equipment in good working order while operating the Plant, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2), 116.615(9), Standard Permit Registration No. 72637L002, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 26, 2007. Specifically, on October 26, 2007, the Respondent operated with damaged fabric filters resulting in visible emissions. General Condition (1)(K)(i) of the Standard Permit for Hot Mix Asphalt Plants requires that the fabric filter system shall be maintained and operated properly with no tears or leaks.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: J. H. Strain & Sons, Inc., Docket No. 2008-0065-AIR-E " to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

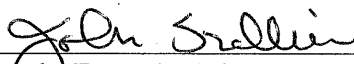
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

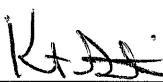
3/21/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

1-22-08  
Date

Kent Strain  
Name (Printed or typed)  
Authorized Representative of  
J. H. Strain & Sons, Inc.

V.P.  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

